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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/273,948	03/22/1999	S. JAMALODDIN GOLESTANI	2	7777

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EXAMINER

LY, ANH VU H

ART UNIT

PAPER NUMBER

2667

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10

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/273,948

Applicant(s)

GOLESTANI, S. JAMALODDIN

Examiner

Anh-Vu H Ly

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 3-12 is/are allowed.
- 6) ☒ Claim(s) 13,14,21-22 and 24 is/are rejected.
- 7) ☒ Claim(s) 15-20 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Response to Amendment***

1. This communication is in response to applicant's amendment filed on April 28, 2003.  
The proposed amendment to the claims has been entered. Claims 1 and 3-24 are pending.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 13-14, 21 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Hurst et al. (US Patent 6,151,633). Hereinafter, referred to as Hurst.

With respect to claim 13, Hurst discloses in Figure 8, a computer system or a head 800, which includes network 820 for interacting with other computer systems (first apparatus that receives a data packet from a source of data packets), processor 802 and storage 804 for processing and accumulating related transmissions of data packets (accumulating particular information relating to the transmission of data packets to the receiver).

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Hurst discloses (see Abstract) that the sender receives a congestion status associated with a receiver of the head. This implies that a mechanism (second apparatus) resided within the receiver for generating a congestion status corresponding to the accumulated transmission information (generating and forwarding a transmission control value as a function of the accumulated information as a feedback message to the source so that the source may control its transmission of data messages as a function of (a) the transmission control value received from the receiver).

Further, as illustrated in Fig. 1, receiver 120 receives the congestion information from other receivers such as 126, 128, and 130 and forwards such congestion information to the sender 102 via 157 path (transmission control values received by the receiver from other such receivers (b)).

With respect to claim 14, Hurst discloses in Figure 1, receiver 154 is one of a plurality of receivers in a multicast network (data receiver is one of plurality of receivers that form a multicast group within the data network).

With respect to claim 21, Hurst discloses (col. 6, lines 15-32 and Figure 1) that when a sender 102, in response to receiving the congestion report event (a receiver uses a rate based scheme to determine the congestion control value), reduces its data rate for the entire multicast in order to accommodate a receiver (the source applies the minimum of the congestion control values it receives from receivers as a rate of transmission of new data packets).

With respect to claim 24, Hurst discloses (col. 6, lines 48-60) that a packet sequence number (sequence number generator) is used to keep track of each packet (inserting next generated sequence number in a data packet).

Further, Hurst discloses in Figure 9, a processor 902 (a controller), which is programmed to carry the operations by a sender.

The limitations, “regulates transmission of data packet based on a congestion control value determined using either a rate base or window based scheme, and transmits said data packet in accordance with said congestion control value to a group of receivers forming a multicast group of receivers, in which the congestion control value is selected from a group of congestion control values received from individual ones of the receivers” are addressed in the rejection of claims 13 and 21.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hurst et al. (US Patent 6,151,633) as applied to claims 13 and 14 above, and further in view of Schuster et al (US Patent No. 6,487,603). Hereinafter, referred to as Hurst and Schuster.

With respect to claim 22, Hurst discloses in Fig. 1, a multicast system, wherein, the sender sends data at a rate according to the congestion values received from the receivers.

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Hurst does not disclose that the source inserts a time stamp in a data packet that it transmits to the multicast group of receivers and wherein the first apparatus associates a received data packet with a current time stamp and wherein the first apparatus includes apparatus that determines a trip delay from the source to the receiver as a function of the difference of the inserted time stamp and the current time stamp.

Schuster discloses (col. 8, lines 62-66 and Fig. 2) that at the transmitting side, the packetizer 90 places a time stamp and a sequence number into each data packet 92. Wherein, the time stamp identifies the time a specific data packet 92 was created (the source inserts a time stamp in a data packet that it transmits to the multicast group of receivers).

Further, Schuster discloses (col. 9, lines 24-27) that one-way delay is approximated by averaging the absolute value of differences between time stamp values and received times for each packet 97 (wherein the first apparatus associates a received data packet with a current time stamp and wherein the first apparatus includes apparatus that determines a trip delay from the source to the receiver as a function of the difference of the inserted time stamp and the current time stamp).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the features of having packets stamped at the transmitting side and receiving side and comparing the two values to determine the delay associated with the network in Hurst's system, as suggested by Schuster, to evaluate certain dynamic transporting characteristics of the transporting network.

***Allowable Subject Matter***

4. Claims 15-20, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 1 and 3-12 are allowed.

***Response to Arguments***

6. Applicant's arguments filed April 28, 2003 have been fully considered but they are not persuasive.

Applicant states on page 12, that Hurst fails to teach, disclose or suggest part (b) of the independent claim 13 "transmission control values received by the receiver from other such receivers".

Examiner respectfully disagrees, as clearly illustrated in Fig. 1 and in the rejections of independent claim 13, Hurst discloses that receiver 120 receives the congestion information from other receivers such as 126, 128, and 130 and forwards such congestion information to the sender 102 via 157 path.

Applicant further elaborates on pages 12 and 13, that the claimed limitation of independent claim 13 "transmission control values received by the receiver from other such receivers" means that each receiver ... consolidates congestion control values that it receives from receivers that are positioned at a lower layer in the hierarchy and directly connected to it and forwards the consolidated results upward to a receiver position at a next higher layer in the hierarchy. A receiver ... which receives consolidated feedback messages from its children

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processes the congestion control values contained in those messages with its own (local) congestion control value ... to generate a consolidated feedback parameter.

However, such statements are not part of the claimed invention. Independent claim 13 does not recite an receiver, wherein, each receiver ... consolidates congestion control values that it receives from receivers that are positioned at a lower layer in the hierarchy and directly connected to it and forwards the consolidated results upward to a receiver position at a next higher layer in the hierarchy. A receiver ... which receives consolidated feedback messages from its children processes the congestion control values contained in those messages with its own (local) congestion control value ... to generate a consolidated feedback parameter.

Similar argument applies to the independent claim 24, wherein, applicant states on page 14 that each receiver ... consolidated feedback parameter. However, such statements are not part of the claimed invention. Claim 24 does not recite such receiver consolidates ... and generates a consolidated feedback parameter.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,



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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh-Vu H Ly whose telephone number is 703-306-5675. The examiner can normally be reached on Monday-Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 703-305-4378. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.

avl  
July 1, 2003

  
CHI PHAM  
SUPERVISORY PATENT EXAMINER  
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